

**TITLE 905 ALCOHOL AND TOBACCO
COMMISSION**

Proposed Rule
LSA Document #04-111

DIGEST

Amends 905 IAC 1-5.2-9.2 to allow for the sampling of beer from retailers to consumers. Effective 30 days after filing with the secretary of state.

905 IAC 1-5.2-9.2

SECTION 1. 905 IAC 1-5.2-9.2, AS ADDED AT 27 IR 2281, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

905 IAC 1-5.2-9.2 Samples; consumer product sampling

Authority: IC 7.1-2-3-7; IC 7.1-2-3-8; IC 7.1-2-3-22

Affected: IC 7.1-3-9-11; IC 7.1-3-10-13; IC 7.1-3-14-7; IC 7.1-5

Sec. 9.2. A liquor dealer who is the proprietor of a package liquor store, a liquor retailer, or a wine retailer may offer a product sampling authorized under IC 7.1-3-9-11, IC 7.1-3-10-13, or IC 7.1-3-14-7, in accordance with the following:

- (1) Product that is to be used for a consumer product sampling may be provided by a primary source of supply or wholesaler to an authorized liquor dealer, liquor retailer, or wine retailer, but must be offered to all authorized liquor dealers, liquor retailers, and wine retailers in a nondiscriminatory manner. Samples provided to the liquor dealer, liquor retailer, or wine retailer must be properly invoiced by the authorized wholesaler, and the invoice shall clearly show the product being used for consumer product sampling. A primary source of supply or wholesaler may only provide products to a liquor dealer who is the proprietor of a liquor store, a liquor retailer, or a wine retailer that are lawful for the liquor dealer, liquor retailer, or wine retailer to ordinarily sell under their scope of permit.
- (2) In addition to product that is provided in accordance with subdivision (1), an authorized liquor dealer, liquor retailer, or wine retailer may purchase product to be used for consumer sampling from an authorized wholesaler.
- (3) A sampling described in this subsection may only be conducted by licensed employees of the liquor dealer, liquor retailer, wine retailer, wholesaler, primary source of supply, or a company engaged by a primary source of supply or wholesaler whose primary business is to conduct sampling or tasting promotions on the permit premises and during the normal business hours of the liquor dealer, liquor retailer, or wine retailer.
- (4) The following limitations apply to the number of samples a ~~customer~~ **person** may sample and the size of samples provided to a ~~customer~~ **person** by a liquor dealer, liquor retailer, or wine retailer:

(A) A liquor retailer or a liquor dealer who is the proprietor of a package liquor store may offer a combined total not to exceed two (2) samples of liquor, liqueurs, premixed cocktails, or cordials per ~~customer~~ **person** in a day. A liqueur, premixed cocktail, or cordial sample may not exceed one-half (0.5) ounce, and a sample of liquor may not exceed four-tenths (0.4) ounce.

(B) A liquor retailer, a liquor dealer, or a wine retailer may offer wine samples not to exceed one (1) ounce.

(C) A liquor retailer, a liquor dealer who is the proprietor of a package liquor store, or any other retailer permitted by law may offer beer samples not to exceed six (6) ounces. A person may not sample more than twelve (12) ounces per sampling event under this subsection.

~~(C)~~ **(D)** Any sample provided by a liquor dealer, liquor retailer, or wine retailer to a ~~consumer~~ **person** must be provided in a nondiscriminatory manner.

(5) A liquor dealer, liquor retailer, or wine retailer may not charge a fee to a ~~consumer~~ **person** for a sample.

(6) If a liquor dealer, liquor retailer, or wine retailer modifies their existing floor plan to provide for the sampling, then amended floor plans must be submitted to and approved by the Indiana state excise police.

(7) For a consumer product sampling described in this section, a primary source of supply or wholesaler may not give a liquor retailer, wine retailer, or a liquor dealer who is the proprietor of a package liquor store an aggregate amount of more than **one thousand seven hundred twenty-eight (1,728) ounces of beer, no more than eight hundred sixty-four (864) of which may be of the same product**, nine (9) liters of wine, of which no more than three (3) liters may be the same product, or two and twenty-five hundredths (2.25) liters of liquor, liqueurs, premixed cocktails, or cordials per sampling event.

(Alcohol and Tobacco Commission; 905 IAC 1-5.2-9.2; filed Mar 4, 2004, 10:00 a.m.: 27 IR 2281)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 26, 2004 at 10:00 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room E114, Indianapolis, Indiana the Alcohol and Tobacco Commission will hold a public hearing on a proposed amendment to allow the sampling of beer from retailers to consumers. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E114 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mark C. Webb
Executive Secretary
Alcohol and Tobacco Commission